



CITY OF NEW ORLEANS

CITY CIVIL SERVICE COMMISSION

DEPARTMENT OF CITY CIVIL SERVICE
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Writer: Christina Carroll
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Executive Counsel to the Civil Service Commission

April 9, 2021

VIA E-MAIL: tracy.barker@la.gov
Ms. Tracy Barker
Deputy General Counsel
Louisiana Board of Ethics
P.O. Box 4368
Baton Rouge, LA 70821

RE: Request for advisory opinion

Dear Ms. Barker:

The City of New Orleans Civil Service Commission requests an advisory opinion as to whether the Louisiana Board of Ethics considers the employee member of the New Orleans Civil Service Commission appointed or elected for purposes of Louisiana Code of Governmental Ethics, La. R.S. 42:1101 *et seq.* "Elected official" means any person holding an office in a governmental entity which is filled by the vote of the appropriate electorate. It shall also include any person appointed to fill a vacancy in such offices." La. R.S. § 42:1102(9).

The Louisiana Constitution provides for the election of the employee member of the Commission by the classified employees of the City of New Orleans, with the City Council selecting the Commissioner from a list of three nominees:

In addition, the employees in the classified service of the city of New Orleans shall nominate three persons in the classified service of the city of New Orleans by means of an election called for that purpose. The municipal governing authority shall appoint one member of the commission from the three persons nominated by each nominating authority.

La. Const. art. X, § 4(B).

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The Commission's rules implement this constitutional provision as follows:

12.4 The nominating election for employee membership on the City Civil Service Commission shall be administered by the Civil Service Department using prescribed forms developed for that purpose. When an election is announced, employees wishing to qualify for the seat on the Commission may obtain the appropriate filing forms from the Civil Service Department during the specified pre-election time period. Nominees will be allowed the option of submitting a brief biographical sketch (50-word maximum) for enclosure with the official ballot, which, if submitted, must be received in the Civil Service Department by the close of business on the final date for qualifying. Failure to submit the required forms/documents in a timely manner will result in the disqualification of the nominee.

12.5 The election process shall be conducted by sealed ballot which may be mailed or delivered in person to the Civil Service Department or mailed to a designated vendor selected by the Personnel Director. The official ballot of qualified nominees, listed in alphabetical order, will be prepared by the Civil Service Department or designated vendor and mailed to each classified employee hired on or before the final date for qualifying. (amended March 20, 2017) Only official ballots returned in sealed official envelopes which are received by the close of business on the final day designated for the receipt of ballots will be counted. All costs of the election process and any subsequent run-off, protest or judicial challenge shall be adequately funded by the City of New Orleans.

12.6 Employees will be allowed to vote for three (3) candidates in the nominating election.

12.7 Tabulation of official ballots will be performed by the Civil Service Department or designated vendor at a time, place and date determined by the Director. If the tabulation is conducted by the Civil Service Department, then each candidate may designate one observer (other than the candidate) to be present when the official ballots are tabulated. If the designee is a City employee and the time of tabulation of ballots is during the designee's regular work day, annual leave shall be allowed by the designee's appointing authority. If the tabulation of ballots occurs at the conclusion of the designee's normal work week or work period, any time spent in observing the tabulation of ballots shall not be compensable.

12.8 The Director will certify and give public notice of the results of the election and transmit to the City Council the names of the three (3) employees who received the largest number of votes. The candidate receiving the largest number of votes will be listed first, followed by the candidate who finished second, and then by the candidate who finished third.

12.9 Within (30) calendar days following the transmittal of names of the three (3) nominees to the City Council, the Council shall make an appointment of one (1) employee. If the municipal governing authority fails to appoint within the thirty (30) calendar days, the nominee whose name is first on the list of nominees automatically shall become a member of the Commission

Civil Service Rule I, §§ 12.4-12.9. The Commission's rules have the effect of law: "Civil service rules thus have the effect of law." *Bannister v. Dep't of Streets*, 95-0404 (La. 1/16/96), 666 So. 2d 641, 645 (citing La. Const. art. X, § 10(A)(4)).

Therefore, based on these authorities, the New Orleans Civil Service Commission requests an advisory opinion as to whether the employee member of the Commission is elected or appointed.

Sincerely,

A handwritten signature in black ink that reads "Christina Carroll". The signature is written in a cursive, flowing style.

Christina Carroll

Tracy Barker (Ethics)

From: Christina Carroll <Christina.Carroll@nola.gov>
Sent: Friday, April 9, 2021 12:56 PM
To: Tracy Barker (Ethics)
Cc: brichardsoncsc@gmail.com; cjmoorejrcsc@gmail.com
Subject: Request for Advisory Opinion
Attachments: Barker 040921.pdf

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

Ms. Barker:

Attached is a request for an advisory opinion from the New Orleans Civil Service Commission. Please feel free to contact me if you have any questions.

Christina Carroll